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HAROLD B. WILLEY,

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1953

No. 391

F. H. VAHLSING, INC.

vs.

STATE OF MAINE,

Appellee

APPEAL FROM THE SUPREME JUDICIAL COURT OF THE STATE OF MAINE

STATEMENT IN OPPOSITION TO APPELLANT'S STATEMENT OF JURISDICTION AND MOTION TO DISMISS OR AFFIRM

ALEXANDER A. LAFLEUR,
Attorney-General
of the State of Maine,
Counsel for Appellee.

BOYD L. BAILEY,
ROGER A. PUTNAM,
Assistant Attorneys-General,
Of Counsel.

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STATEMENT IN OPPOSITION TO APPELLANT'S STATEMENT OF JURISDICTION AND MOTION TO DISMISS OR AFFIRM

The State of Maine, appellee in the above-entitled cause, for its statement in opposition to appellant's Statement as to Jurisdiction, and in support of appellee's motion to dismiss or affirm, respectfully shows:

The Issues

Appellant, defendant and judgment-debtor below in an action brought by the State of Maine for the collection of its so-called potato tax, here attempts to challenge the con-

stitutionality of the taxing statute under the Interstate Commerce Clause and the Fourteenth Amendment. The State, appellee, represents that the issues raised are insubstantial. They have already been heard twice by the Supreme Judicial Court of Maine and determined each time adversely to appellant; they concern a tax disputed by no other taxpayer during the 16 years the statute has been part of the revenue structure of the State; the statute is substantially identical with revenue legislation of long standing in other states; its constitutional merits have been approved in many opinions of the Supreme Court of the United States concerning analogous enactments.

Appellant was and continues to be a grower and shipper of potatoes on an extensive scale in Aroostook County, Maine. Between July 1, 1950, and January 1, 1953, it shipped 699,348 barrels of potatoes, all Maine-raised. As required by the statute here in question (Sections 206-217, incl., Chapter 14, Revised Statutes of Maine, a copy of which is hereto annexed for convenience), the State Tax Assessor assessed a tax against appellant "at the rate of 1¢ per barrel on all potatoes raised in this state." (Sec. 208, id.) The amount of the assessment was, of course, $6,993.48.

The assessment being unpaid, the State brought an action for collection in the state Superior Court. Appellant defended upon the sole ground that the taxing statute violated its constitutional rights. The Superior Court gave judgment for the State. Exceptions were taken to and overruled by the Supreme Judicial Court, Maine's court of last resort, in an opinion reported as *State* v. *F. H. Vahlsing, Inc.*, 1953 149 Me. 38, 98 Atl. (2d) 559. (Appellant's Statement, Appendix "B".) The opinion is short. Counsel for the taxpayer had filed no brief. The opinion therefore relies heavily upon the previous opinion of the same court involving the same parties and legal issues (but different pota-

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toes), reported as *State* v. *F. H. Vahlsing, Inc.*, 1952, 147 Me. 417, 88 Atl. (2d) 144. (Appellant's Statement, Appendix "A".)

While the 1953 judgment is the one appealed from, the 1952 opinion is of immediate and chief interest since it contains a full discussion.

Appellant assigns as error, and appellee accepts these issues as duly raised, that the potato tax offends:

> The Interstate Commerce Clause; and
>
> The Fourteenth Amendment in that it (a) deprives appellant of its property without due process, (b) deprives appellant of equal protection of the laws, (c) constitutes class legislation, (d) amounts to double taxation and (e) is for a private rather than a public purpose.

The Potato Tax Law

We disagree with appellant's statement of what is taxed:

> "The Maine Revised Statutes 1944, Chapter 14, Sections 206 to 217 and Acts Amendatory thereof, provide for a tax on potatoes grown, sold and shipped in Maine . . . ." (Appellant's Statement, p. 1.)

What is taxed, in our opinion, is "potatoes raised in this state." (Sec. 208.) The due date and ascertainment of tax are postponed until the shipper, as distinguished from the grower, has "received, sold or shipped." (Sec. 212.) While appellant's statement is fair, being made in argument, and while the distinction is fine, the refinement has a bearing on our contention that the incidence of tax is clearly prior and unrelated to interstate commerce.

A full copy of the tax statute, which is short, is hereto annexed. An authoritative summary is stated in the 1952 opinion of the Supreme Judicial Court. (147 Me. at pp. 421-

424.) (Appellant's Statement, Appendix "A", pp. 11-13.) Here we wish to emphasize only:

Sec. 208: A tax is levied of one cent a barrel "on all potatoes raised in this state," excepting potatoes retained by the grower for his own use.

Sec. 211: The shipper, upon buying potatoes, is required to collect the tax from the grower.

Sec. 212: The shipper is required to remit the tax to the state.

Sec. 215: The tax revenues are required to be spent for specific purposes, as later set forth herein under *"The Tax is for a Public Purpose."*

Appellant's Contention That the "Potato Tax" Burdens Interstate Commerce Presents No Substantial Federal Question

The potato tax is an excise.

> "The potato tax is not a tax assessed on an *ad valorem* basis on the value of potatoes owned, but like the gasoline tax, the use fuel tax, the cigarette tax, and the oleomargarine tax, on the amount of business done in the particular commodity within the state. It is an excise tax and not a property tax and is clearly imposed as an excise tax." (1952 Opinion, 147 Me. at 420, Appellant's Statement, Appendix "A", p. 10.)

Patton v. *Brady, Executrix*, 1901, 184 U. S. 608, 46 L. Ed. 713, 22 S. Ct. 493. The Court held the following to be an excise: "That there shall . . . be levied and collected a tax of 12¢ per pound upon all tobacco and snuff, however prepared, manufactured and sold, for consumption or sale." This, of course, is very similar to the potato tax. The Court discussed the nature of excises at length and quoted the following definition with apparent approval:

> "Cooley in his work on Taxation, page 3, defines it as 'an inland impost levied upon articles of manufac-

ture or sale, and also upon licenses to pursue certain trades, or to deal in certain commodities'." (184 U. S. at 617.)

The incidence of the tax is thus stated:

"Sec. 208 imposes the tax at the rate of 1¢ a barrel on all potatoes raised in the state, except such as are retained by the grower to be used for home consumption and for seed purposes." (1952 Opinion, 147 Me. at 421.) (Appellant's Statement, Exhibit "A", p. 11.)

Thus, what is taxed is potatoes raised in Maine, a purely intra-state matter.

"The determination of the incidence and scope of the exaction—what is taxed—is a function for the state court, and that question will not be reviewed by the Supreme Court of the United States." (Hartman, State Taxation of Interstate Commerce, 1953, p. 119.)

Armour Packing Co. v. *Lacy, 1906,* 200 U. S. 226, 234, 50 L. Ed. 451, 26 S. Ct. 232;

Kehrer v. *Stewart, 1905,* 197 U. S. 60, 69-70, 49 L. Ed. 663, 25 S. Ct. 403.

The amount of the tax is determined and the tax becomes due when the potatoes—not all potatoes, but only those raised in Maine—are "received, sold or shipped" (Sec. 212). Thus the tax does not in fact create a burden on interstate commerce, for the obvious reason that the tax is levied not on the potatoes sold but on the "potatoes raised" within the State of Maine. Statutes of similar import, as construed by the courts of final jurisdiction in the respective States, have unanimously been held not to burden interstate commerce, for the reason that the products taxed have not as yet entered the stream of commerce.

C. V. Floyd Fruit Co. v. *Florida Citrus Commission, 1937,* 128 Fla. 565; 175 So. 248; 112 A. L. R. 562;

Miller v. *Michigan State Apple Commission, 1941*, 296 Mich. 248; 296 N. W. 245;
State v. *Enking, 1938*, 59 Idaho 321; 82 P. 2d. 649.

C. V. Floyd Fruit Co. v. *Florida Citrus Commission, supra*, involved "an excise tax of one cent on each standard-packed box of oranges grown in the State of Florida." The tax "shall be due and payable and shall be paid when the oranges covered by this law are first handled in the primary channel of trade." (128 Fla. at 570.) The Michigan tax was on apples "grown and produced in Michigan" and was payable "when shipped." (296 Mich. at 251.) The Idaho case involved a tax on "apples, prunes, potatoes, and onions shipped from or within the State of Idaho." (59 Id. at 330.) The three cases are on all fours with the one at bar.

That these state cases, cited because they involve taxes almost identical with the Maine potato tax, are well based, hardly needs citation of federal authority. However, it can be pointed out that the Supreme Court of the United States has sustained privilege taxes whose incidence precedes movement in interstate commerce in the following cases among others:

Chassaniol v. *City of Greenwood, 1934*, 291 U. S. 584, 78 L. Ed. 1004, 54 S. Ct. 541. (Occupation tax on buying and selling cotton locally produced, processed and warehoused.)
Utah Power and Light Co. v. *Pfost, 1932*, 286 U. S. 165; 76 L. Ed. 1038, 52 S. Ct. 548. (License tax on production of electricity.)

The method of collection of the tax, Section 211, Chapter 14, Revised Statutes of Maine, 1944, does not create a burden on interstate commerce. Though the tax is levied on "potatoes raised", the payment and measure of the tax are deferred until the first sale. The purpose of deferring the payment is administratively sound: (1) the specific exemp-

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tions become self-operating, (2) the potatoes have been graded and sized into the unit volume, i.e., barrels, and (3) they have been transferred to a few dealers, allowing for more economical policing and collection. To postpone the ascertainment and payment of a proper state tax until the goods or services are brought into the market does not make the tax a burden on interstate commerce.

American Manufacturing Co. v. *St. Louis, 1919*, 250 U. S. 459; 63 L. Ed. 1084; 39 S. Ct. 522. (License tax in nature of gross receipts tax on goods manufactured within the taxing city; tax was measured by actual sales.)

Western Live Stock v *Bureau of Revenue, 1938*, 303 U. S. 250; 82 L. Ed. 823; 58 S. Ct. 546; 115 A. L. R. 944. (Privilege tax on sale of advertising space in periodicals circulated interstate.)

In the *Western Live Stock* case, the Court said (303 U. S. at 257):

> "In the present case the tax is, in form and substance, an excise conditioned on the carrying on of a local business, that of providing and selling advertising space in a published journal, which is sold to and paid for by subscribers, some of whom receive it in interstate commerce. The price at which the advertising is sold is made the measure of the tax. This Court has sustained a similar tax said to be on the privilege of manufacturing, measured by the gross receipts from sales of the manufactured goods both interstate and intrastate. *American Manufacturing Co.* v. *St. Louis, supra*, 462. The actual sales prices which measured the tax were taken to be no more than the measure of the value of the goods manufactured, and so an appropriate measure of the value of the privilege, the taxation of which was deferred until the goods were sold."

The potato tax statute fits so closely into the taxing pattern above described, being "an excise conditioned on the

carrying on of a local business" the product of which "is sold to and paid for by" shippers "some of whom receive it in interstate commerce" that it inexorably follows that since the adjudicated tax was held not to burden interstate commerce, the same result ought to obtain respecting the potato tax.

The Maine "Potato Tax" imposes no burden on interstate commerce.

Appellant's Contention That the "Potato Tax" Is Offensive To the Provisions of the Fourteenth Amendment Presents No Substantial Federal Question

In its Statement as to Jurisdiction, appellant claims violation of the Fifth Amendment. To that we submit it is unnecessary to reply, since that Amendment was not intended to limit the power of states.

The Tax Is Not Discriminatory or Class Legislation

Appellant states that the tax "is discriminatory since it applies only to the potato industry." (Statement as to Jurisdiction, p. 6.)

We take it that appellant contests the State's right to tax "potatoes raised" while not also taxing "beans raised" and other products.

So sweeping an objection cannot be sustained. Notoriously, in the states, there are specialized sales taxes on cigarettes, gasoline, etc. Not all sales need be taxed. The Federal Government has a similarly selective excise tax pattern.

> "It would be an intolerable burden if a State could not tax any property or calling unless, at the same time, it taxed all property or all callings." *Connolly v. Union Sewer Pipe Co.*, 1902, 184 U. S. 540, 562, 46 L. Ed. 679, 22 S. Ct. 431.

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In *Bowman* v. *Continental Oil Company, 1920*, 256 U. S. 642, 65 L. Ed. 1139, 41 S. Ct. 606, the constitutionality of a gasoline tax of 2¢ a gallon was questioned, particularly under the Fourteenth Amendment. At 256 U. S. 649, the Court said:

> "The tax imposed by the act under consideration upon the 'sale or use of all gasoline sold or used in this State' is not property taxation, but in effect, as in name, an excise tax. We see no reason to doubt the power of the State to select this commodity, as distinguished from others, in order to impose an excise tax upon its sale and use . . . .
>
> "There is no substance in the objection that the excise tax, as applied to domestic sales and domestic use of gasoline, infringes plaintiff's rights under the due process and equal protection clauses of the Fourteenth Amendment." *Armour Packing Co.* v. *Lacy*, 1905, 200 U. S. 226, 235, 50 L. Ed. 451, 26 S. Ct. 232.

That potato raisers were not selected by any arbitrary or discriminatory process is evident from the declarations of the legislature and the Supreme Judicial Court, next discussed. The choice of "potatoes raised" as an incidence of tax was amply within legislative power.

The Tax is for a Public Purpose

The tax revenues are allocated by Sec. 215 for enforcement of the tax law, for determining better methods of production and merchandising of potatoes and potato by-products and for merchandising and advertising Maine potatoes. Expenditures are controlled by agencies of State Government, Maine Agricultural Experiment Station and Maine Development Commission.

Both the legislature and the Supreme Judicial Court have declared the tax to be for a public purpose.

> "The production of potatoes is one of the most important agricultural industries of this state and Sec-

tions 206 to 217, inclusive, were enacted into law to conserve and promote the prosperity and welfare of this state and of the potato industry of this state for fostering and promoting better methods of production, merchandising, and advertising the said potato industry of this state." (Sec. 206, Potato Tax Law)

In its 1952 Opinion, the Supreme Judicial Court of Maine said:

> "In other words, these funds are to be used for agricultural research and education in the State of Maine, and for advertising *Maine potatoes*, a distinctive and substantial *Maine product*. True the subject matter of this research is specialized and confined to a single crop. That crop, however, is of such magnitude that there cannot be any doubt that it affords a proper field for specialized research and education. The allocation of a portion of the funds raised by the tax to advertising the product is but a method of assuring to those taking advantage of the research a market for the product." (147 Me. at p. 423; Appellant's Statement, Appendix "A", p. 13)

Our Court also said:

> "In other words, so far as used for advertising, these funds are to be used for advertising the State of Maine by advertising the *Maine potato*, a typical and distinctive product of this State, the raising of which constitutes one of our basic industries." (147 Me. at p. 424; Appellant's Statement, Appendix "A", p. 14)

The Court also said:

> "This potato tax was imposed for a public purpose, and because in the opinion of the legislature the public exigencies required it; at least we must so hold where the industry for the benefit of which the tax is levied is as important and as basic as is the potato industry to the State of Maine which imposes the tax." (147 Me. at p. 429; Appellant's Statement, Appendix "A", p. 18)

Further, we request the Supreme Court of the United States to take judicial notice that potato raising is a basic Maine industry. *Sligh* v. *Kirkwood*, 1915, 237 U. S. 52, 61, 59 L. Ed. 835, 35 S. Ct. 501. To assist the Court we call attention to the following figures (not in evidence) supplied by U. S. Bureau of Agricultural Economics.

Maine cash farm income from potatoes was

$110,256,000 in 1948; total farm income being	$216,874,000
71,363,000 in 1949; total farm income being	172,820,000
53,969,000 in 1950; total farm income being	160,911,000
49,077,000 in 1951; total farm income being	180,079,000
89,468,000 in 1952; total farm income being	217,400,000

The declarations of the Supreme Judicial Court and the legislature, while not controlling, are strongly persuasive—

> "The nature of a use, whether public or private, is ultimately a judicial question. However, the determination of this question is influenced by local conditions; and this Court, while enforcing the Fourteenth Amendment, should keep in view the diversity of such conditions and regard with great respect the judgments of state courts upon what should be deemed public uses in any State. . . . And like respect should be accorded to the declaration of the legislative body of the State." *Milheim* v. *Moffat Tunnel District*, 1922, 262 U. S. 710, 717, 67 L. Ed. 1194, 43 S. Ct. 694.
>
> "The attitude of this court toward state legislation purporting to be passed in the public interest, and so declared to be by the decisions of the court of last resort in the State passing the act, has often been declared. While the ultimate authority to determine the validity of legislation under the Fourteenth Amendment is vested in this court, local conditions are of such varying character that what is or is not a public use in a particular State is manifestly a matter respecting which local authority, legislative and judicial, has peculiar facilities for securing adequate information. In that view the judgment of the highest court

> of the State upon what should be deemed a public use in a particular State is entitled to the highest respect." *Jones* v. *City of Portland*, 1917, 245 U. S. 217, 221, 62 L. Ed. 25, 38 S. Ct. 11.

The potato tax has not only been declared by the legislature and the Supreme Judicial Court to be for a public purpose; it has been accepted by the public for 16 years. (Appellant's Statement, Appendix "A", p. 13) Its allocation of funds fits into a pattern accepted for 70 years. (Id., p. 17)

While we have endeavored not to duplicate the well considered opinion of the Supreme Judicial Court of 1952 we can find no better closing of this branch of the argument than the following quotation used by that Court, from *Loan Asso.* v. *Topeka*, 1874, 20 Wall. 655, 664; 22 L. Ed. 455;

> "It is undoubtedly the duty of the legislature which imposes or authorizes municipalities to impose a tax to see that it is not going to be used for purposes of private interest instead of a public use, and the courts can only be justified in interposing when a violation of this principle is clear and the reason for interference cogent. And in deciding whether, in the given case, the object for which the taxes are assessed falls upon the one side or the other of this line, they must be governed mainly by the course and usage of the government, the objects for which taxes have been customarily and by long course of legislation levied, what objects or purposes have been considered necessary to the support or for the proper use of the government, whether state or municipal. Whatever lawfully pertains to this and is sanctioned by time and the acquiescence of the people may well be held to belong to the public use, and proper for the maintenance of good government, though this may not be the only criterion of rightful taxation."

Appellant is not Deprived of Property without Due Process of Law

This point overlaps to a degree the one just previous.

> "It is not denied that since the adoption of the Fourteenth Amendment state taxing power can be exerted only to effect a public purpose and does not embrace the raising of revenue for private purposes." *Carmichael* v. *Southern Coal Company*, 1936, 301 U. S. 495, 514, 81 L. Ed. 1245, 57 S. Ct. 868.

However, we know of no exception to the general principle:

> "That whenever by the laws of a State, or by State authority, a tax, assessment, servitude, or other burden is imposed upon property for the public use, whether it be for the whole State or of some more limited portion of the community, and these laws provide for a mode of confirming or contesting the charge thus imposed, in the ordinary courts of justice, with such notice to the person or such proceedings in regard to the property as is appropriate to the nature of the case, the judgment in such proceedings cannot be said to deprive the owner of his property without due process of law, however obnoxious it may be to other objections." *Davidson* v. *New Orleans*, 1877, 96 U. S. 97, 104, 24 L. Ed. 616.

We respectfully call to the Court's attention that the potato tax is enforced solely by "the ordinary courts of justice." (Potato Tax Law, Sec. 214)

Appellant Cannot Claim Constitutional Immunity from Double Taxation

It is elementary that the Federal Constitution does not prohibit double taxation.

> "It is said that the plaintiff's property had previously been assessed for the same purpose, and the

> assessment paid. If this be meant to deny the right of the State to tax or assess property twice for the same purpose, we know of no provision in the Federal Constitution which forbids this, or which forbids unequal taxation by the States." *Davidson* v. *New Orleans*, 1877, 96 U. S. 97, 106, 24 L. Ed. 616.

In a contest over an assessment of an ad valorem property tax on a railroad, in part measured by its intangibles, the Supreme Court held:

> "The contention that the statute violates the Fourteenth Amendment is wholly without merit. It has long been settled . . . that the legal protection clause is not violated by prescribing different rules of taxation for railroad companies than for concerns engaged in other lines of business; and that the Federal Constitution does not afford protection against double taxation by a State." *Baker* v. *Druesedow*, 1923, 263 U. S. 137, 140, 68 L. Ed. 212, 44 S. Ct. 40.

The Supreme Court has also said that "The Fourteenth Amendment does not require uniformity of taxation, Davidson v. New Orleans, 1877, 96 U. S. 97, 105, 24 L. Ed. 616, nor forbid double taxation." *Swiss Oil Corporation* v. *Shanks*, 1926, 273 U. S. 407, 413, 71 L. Ed. 709, 47 S. Ct. 393.

The State of Maine does not concede that the potato tax involves double taxation.

Appellant's Citation of Cases

The Statement as to Jurisdiction, p. 2, cites five cases for the proposition that appellant is entitled to file a petition for leave to appeal. Since appellee does not dispute this proposition, it should not, and does not, take the Court's time disputing whether the citations perform their intended office.

Conclusion and Motion

Appellant has the burden of showing substantiality.

Wick v. *Chelane Elec. Co., 1929* 280 U. S. 108, 74 L. Ed. 212, 50 S. Ct. 41

Equitable Life Assurance Soc. v. *Brown, 1902* 187 U.S. 308, 311, 47 L. Ed. 190, 23 S. Ct. 123

Revised Rules of the Supreme Ct. of the U. S., Rule 12, par. 1

That burden it has not sustained.

We respectfully submit that the questions of constitutional law here presented have long ago been adjudicated in analogous cases, leaving no substantial question entitling appellant to invoke the jurisdiction of the Supreme Court of the United States.

Wherefore, appellee respectfully moves that the within appeal be dismissed or that the judgment of the Supreme Judicial Court of Maine be affirmed.

Alexander A. LaFleur,
Attorney-General of the State of Maine,
Counsel for Appellee.

Boyd L. Bailey,
Roger A. Putnam,
Assistant Attorneys-General,
Of Counsel.

STATE OF MAINE

Laws of Maine Imposing a Tax on Potatoes

BUREAU OF TAXATION
AUGUSTA, MAINE

Sections 206 to 217, inclusive, of Chapter of the Revised Statutes 1944, as amended by Public Laws of 1945

Sec. 206. Purpose. The production of potatoes is one of the most important agricultural industries of this state and sections 206 to 21 inclusive, were enacted into law to conserve a promote the prosperity and welfare of the state and of the potato industry of this sta by fostering and promoting better methods production, merchandising, and advertising said potato industry of this state.

Sec. 207. Terms defined. The terms u in sections 206 to 217, inclusive, shall be co strued as follows:

"Potatoes" shall mean and include all pot toes of the grades as recommended by the b reau of agricultural economics of the Unit States department of agriculture, and su other grades as may from time to time be pr mulgated by the department of agriculture the state of Maine. The records of the depa ment of agriculture of the state of Maine the grades recommended by said bureau agricultural economics of the United Stat department of agriculture shall be prima fa evidence of such grades;

"Barrel" shall mean 165 pounds of potato

"Shipper" shall mean any person, partn ship, association, firm, or corporation engag in the shipping of potatoes or transporting own potatoes, whether as owner, agent otherwise;

"Shipment" shall be deemed to take place
hen the potatoes are located within the state
the car, boat, truck, or other conveyance in
hich the potatoes are to be transported.

Sec. 208. Tax of 1c per barrel on potatoes. A tax is levied and imposed at the rate of 1c per barrel on all potatoes raised in this state, except that no tax shall be imposed upon any potatoes which are retained by the grower to be used by him for seed purposes or for home consumption.

Sec. 209. Time tax is due. The tax imposed by section 208 shall be due upon any particular lot or quantity of potatoes under the provisions of section 212.

Sec. 210. Shippers to file applications with state tax assessor; contents of applications; shippers not to ship until certificate is issued. 1945, c. 30, § 1. Every shipper of potatoes, as defined in section 207, shall file an application with the state tax assessor, on forms prescribed and furnished by the state tax assessor which shall contain the name under which such shipper is transacting business within the state, the place or places of business and location of loading and shipping places and agents of the shipper; the names and addresses of the several persons constituting a firm or partnership and, if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The state tax assessor will then issue a certificate to the shipper and no shipper shall sell or ship any potatoes, as defined in section 207, until such certificate is furnished as required by this section.

Sec. 211. Shipper entitled to deduct t from selling price. Each shipper purchas potatoes and paying, or becoming liable to pa the tax imposed by section 208 shall charg and collect from the seller a tax at the rate 1c per barrel, to be deducted from the purcha price of all potatoes subject to the tax, so pu chased by such shipper.

Sec. 212. Report of shipments to be ma on 15th of each month for preceding mont tax to be paid on or before 1st day of mon succeeding filing of report. 1945, c. 30, § Every shipper shall keep as a part of his pe manent records a record of all purchases, sa and shipments of potatoes, which said recor shall be open for inspection at all times a hereinafter provided, and every shipper sha on or before the 15th day of each mont render a report to the state tax assessor sta ing the quantity of potatoes received, sold, shipped by him during the preceding calen month, on forms to be furnished by said t assessor, and said report shall contain su further information pertinent thereto as s state tax assessor shall prescribe. On or b fore the 1st day of the calendar month succe ing the filing of said report, each shipper sh pay to the state tax assessor a tax at the ra of 1c per barrel upon all potatoes so report as purchased, sold, or shipped, as determi by the state tax assessor. The state tax a sessor shall pay over all receipts from such t to the treasurer of state daily.

Sec. 213. State tax assessor or his agent have authority to inspect. 1945, c. 30, § The state tax assessor or his duly authoriz agent shall have authority to enter any pl

business of any shipper, or any car, boat, ck, or other conveyance in which potatoes to be transported, and to inspect any books records of any shipper for the purpose of ermining what potatoes are taxable under provisions of sections 206 to 217, inclusive, for the purpose of determining the truth or ity of any statement or return made by any pper, and he shall have authority to dele- te such power to the commissioner of agri- ture, his deputies, agents, servants, or em- yees.

Sec. 214. **Penalty for false return or vio- ion of provisions; tax may be collected by il action; jurisdiction.** Any shipper of pota- s, as defined in section 207, who shall make false or fraudulent report or return re- red by sections 206 to 217, inclusive, or who ll evade or violate any of the provisions of l sections, shall be punished by a fine of not re than $500. Whenever any shipper shall l to pay any tax due under the provisions of l sections, within the time limited herein, attorney-general shall enforce payment of h tax by civil action against such shipper the amount of such tax, either in the su- rior court or municipal court in and for the nty in which such shipper has his residence established place of business.

Sec. 215. **Appropriation of moneys received.** neys received through the provisions of sec- ns 206 to 217, inclusive, by the treasurer of te shall be appropriated and used for the lowing purposes:

1. For the collection of the tax provided for by section 208 and the enforcement of all

the provisions of sections 206 to 217, inclusive.

II. A sum which shall equal at least of the money collected shall be used applied for the purpose of investigating determining better methods of produc shipment, and merchandising of pota and for the manufacture and merchandi of potato by-products by the Maine a cultural experiment station under the su vision of the Maine development commis

III. A sum which shall equal at least of the money collected shall be used for general purpose of merchandising and ad tising Maine potatoes for food and for purposes under the direction of the M development commission.

IV. The funds remaining over and a the expenses of carrying out the provis of sections 206 to 217, inclusive, inclu the expenditures authorized under the visions of subsections II and III of this tion, may be expended by the commissio carry out the purposes outlined in said sections as it may determine.

Sec. 216. Maine potato tax committee. Maine potato tax committee, as hereto established, shall consist of 5 members t appointed by the commissioner of agricul from representatives of the potato industr this state. Four of these members shal residents of Aroostook county and one a r dent of central Maine, so called. Each m ber shall be appointed for a term of 2 y or until his successor is duly appointed qualified. In case of a vacancy caused

th, resignation, or otherwise, the vacancy
ll be filled by the commissioner for the un-
ired period of the term. The said commit-
shall work with the Maine development
mission in an advisory capacity to assist
commission in the carrying out of the pro-
ions of sections 206 to 217, inclusive. The
mbers of the committee shall serve without
mpensation, but shall be reimbursed for ex-
ses incurred in the performance of their
ies.

ec. 217. Tax in addition to other taxes. taxes imposed and collected under the pro-
ions of sections 206 to 217, inclusive, shall in addition to any other taxes legally im-
ed or collected under any other provision the law of the state now or hereafter in
ce.